



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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**DIRK KEMPTHORNE**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

May 17, 2004

Bob Duke  
Water District 34  
P.O. Box 53  
Mackay, ID 83251

RECEIVED

MAY 21 2004

Department of Water Resources  
Eastern Region

**RE: Requesting a Futile Call Determination**

Dear Mr. Duke:

The purpose of this letter is to provide additional guidance, as you requested, regarding the process the Water District should follow to request a futile call determination from the Director of the Idaho Department of Water Resources (Department). This letter specifically addresses requests for a futile call determination on the Big Lost River downstream of the Beck diversion. Diversions downstream of Mackay Dam and upstream of, and including, the Beck diversion are hereafter referred to as upstream diversions. Diversions downstream of the Beck diversion are hereafter referred to as downstream diversions.

Until a futile call determination has been issued by the Director, all water deliveries must continue to be made based on prior appropriation. In other words, the priority date of natural flow water right deliveries to the upstream diversions must be based on the amount of natural flow that is actually delivered to the downstream diversions. Junior priority rights at the upstream diversions must be curtailed as soon as possible after determining the priority that is deliverable to the downstream diversions. The priority date and diversion headings may need to be adjusted on at least a daily basis during this period. Because there are water rights for a total of 15.839 cfs on downstream diversions that are senior to any water rights on the upstream diversions, the upstream diversions may need to be curtailed completely.

As the amount of storage water released from Mackay Reservoir declines, the total amount of water delivered to the upstream diversions must not exceed the sum of the amount of storage water released and the natural flow rights in priority, if any. Based on review of data from the 2003 irrigation season, it appears that water was delivered out-of-priority to the upstream diversions between August 3 and August 7.

If water is being delivered according to prior appropriation and is reaching a downstream diversion heading, but is not sufficient for beneficial use, water users on downstream diversions may voluntarily choose to withdraw their delivery calls. If all senior downstream water users voluntarily withdraw their delivery calls, the Watermaster may deliver water to next-in-time users on the upstream diversions without a futile call determination from the Director. If any of the downstream senior water users

choose to continue to call for water, the Watermaster must not deliver junior water rights to upstream diversions until a futile call determination has been issued by the Director.

The Department will consider a futile call request when the following conditions occur:

1. Storage water allocated to users on downstream diversions has been depleted.
2. Diversion data submitted by the Water District show that natural flow deliveries to the upstream and downstream diversions have been, and continue to be, based on prior appropriation.
3. Water is no longer reaching the downstream diversion headings, or water reaching the downstream diversion headings is not sufficient to be beneficially used without unreasonable waste.

The following documentation and data must be submitted to the Department if a futile call determination is requested.

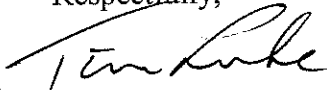
1. Letter signed by the Watermaster requesting a futile call determination from the Director, describing the basis for the futile call request and steps taken to deliver water to downstream diversions
2. The following daily data for 14 days preceding and including the date of request:
  - a. Priority date used to deliver natural flow downstream of Mackay Reservoir
  - b. Water right numbers and diversion rates for each water right that is being called for, but is not being satisfied
  - c. Contents of Mackay Reservoir (in acre-feet)
  - d. Flow at the Leslie Bridge gaging station (in cfs)
  - e. Diversion rate at each diversion from the Big Lost River downstream of Mackay Reservoir (in cubic feet per second (cfs))
  - f. Amount of natural flow delivered to each diversion (in cfs)
  - g. Amount of storage water delivered to each diversion (in cfs)
  - h. Conveyance losses assessed to storage deliveries between Mackay Dam and each point of diversion from the Big Lost River (in percent)
  - i. Map showing location of the downstream end of flow in the Big Lost River channel, for each day that water has not reached the Moore diversion (use attached base map)

- j. Map showing location of end of flow in canal(s) and location(s) of place(s) of use, if a futile call is requested because deliveries are not sufficient for beneficial use (use attached base map)
3. Other supporting documentation that the Water District believes is pertinent to the determination

You may need to plan or prepare in advance of a potential futile call request so that you can quickly obtain this information and documentation. The Department will review the data submitted and may request additional data if needed. The Department may conduct a site visit if possible to selected diversions and/or gaging stations prior to the issuance of a determination by the Director. The Department may also consult with the water district advisory board, the Big Lost River Irrigation District, and/or other impacted water users prior to making a determination.

Please contact me or Jennifer Berkey directly with any questions at 208-327-7900.

Respectfully,



Tim Luke

Water Distribution Section

Enclosures

cc w/o enclosures: IDWR Eastern Region

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